

Senator Santiesteban at 10:32 o'clock a.m. called the Senate to order as In
Legislative Session.

ADJOURNMENT

On motion of Senator Mauzy, the Senate at 10:33 o'clock a.m. adjourned until 10:35 o'clock a.m. today.

SIXTY-SEVENTH DAY

(Thursday, May 12, 1983)

The Senate met at 10:35 o'clock a.m., pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Blake, Brooks, Brown, Caperton, Doggett, Edwards, Farabee, Glasgow, Harris, Henderson, Howard, Jones, Kothmann, Leedom, Lyon, Mauzy, McFarland, Montford, Parker, Parmer, Santiesteban, Sarpalius, Sharp, Sims, Traeger, Truan, Uribe, Vale, Whitmire, Williams.

Absent-excused: Washington.

A quorum was announced present.

The Reverend Dubeyear Harris, Metropolitan African Methodist Episcopal Church, Austin, offered the invocation as follows:

Eternal God, our Father, we thank Thee for this body and for this staff and we do pray that their deliberations and laws that will govern all mankind are for the good, Amen.

On motion of Senator Mauzy and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.

LEAVE OF ABSENCE

Senator Washington was granted leave of absence for today on account of important business on motion of Senator Mauzy.

CO-AUTHOR AUTHOR OF SENATE JOINT RESOLUTION 38

On motion of Senator Glasgow and by unanimous consent, Senator Sarpalius will be shown as Co-author of **S.J.R. 38**.

SENATE BILLS ON FIRST READING

On motion of Senator Uribe and by unanimous consent, the following bills were introduced, read first time and referred to the Committee indicated:

S.B. 1409 by Truan Intergovernmental Relations
Relating to the composition and compensation of the Nueces County Juvenile
Board.

S.B. 1410 by Edwards Intergovernmental Relations
Relating to the creation, administration, powers, duties, operation, and financing
of the Teague Hospital District.

S.B. 1411 by Edwards State Affairs
Relating to the designation of old State Highway 2 as Willie Nelson Highway.

S.B. 1412 by Uribe Natural Resources
Relating to the Rio Grande Valley Municipal Water Authority, deleting certain restrictions upon said authority, to-wit, the power to divert, impound, store, treat or transport water for agricultural purposes, and providing water rights from the Rio Grande River; providing for severability of the act; and declaring an emergency; amending Chapter 623, Acts of the 61st Legislature, Regular Session, 1969.

REPORTS OF STANDING COMMITTEES

Senator Brooks submitted the following report for the Committee on Health and Human Resources:

H.B. 1505 (Amended)
H.B. 1725

Senator Whitmire, Acting Chairman, submitted the following report for the Committee on Health and Human Resources:

S.R. 576

Senator Farabee submitted the following report for the Committee on State Affairs:

S.B. 1280
S.B. 212
S.B. 621
H.B. 639
H.B. 844
H.B. 675
H.B. 1818
H.B. 493
H.B. 860
C.S.H.B. 2154 (Read first time)
C.S.S.B. 1361 (Read first time)

Senator Santiesteban submitted the following report for the Committee of the Whole Senate:

S.R. 599

Senator Mauzy submitted the following report for the Committee on Jurisprudence:

S.B. 814
C.S.S.B. 836 (Read first time)

Senator Santiesteban submitted the following report for the Committee on Natural Resources:

S.B. 1354
S.B. 1356
H.B. 1510
S.R. 563
S.B. 1398
S.B. 1348
H.B. 369
H.J.R. 24

H.B. 2320
H.B. 854
S.B. 1378
H.B. 2306
C.S.S.B. 1005 (Read first time)
S.B. 1350
S.B. 1394
S.B. 1367
H.B. 2165
C.S.S.B. 1380 (Read first time)
C.S.S.B. 1373 (Read first time)
H.B. 930
C.S.H.B. 1304 (Read first time)
H.B. 2226

Senator Traeger submitted the following report for the Committee on Intergovernmental Relations:

H.B. 134
H.B. 1991
H.B. 1619 (Amended)
H.B. 657
H.B. 965 (Amended)
H.B. 724
H.B. 1031
H.B. 1200
H.B. 2161
C.S.S.B. 1366 (Read first time)
C.S.S.B. 784 (Read first time)

SENATE RESOLUTION 600

Senator Brown offered the following resolution:

S.R. 600, Commending the Texas Medical Association Auxiliary for their efforts to improve the health and quality of life in Texas.

BROWN
BROOKS

The resolution was read and was adopted.

MESSAGE FROM THE GOVERNOR

The following Message from the Governor was read and was referred to the Committee on State Affairs, Subcommittee on Nominations:

Austin, Texas
May 12, 1983

TO THE SENATE OF THE SIXTY-EIGHTH LEGISLATURE, REGULAR SESSION:

I ask the advice, consent and confirmation of the Senate with respect to the following appointments:

TO BE COMMISSIONER FOR THE PECOS RIVER COMPACT:

For a term to expire January 23, 1985:

BILLY L. MOODY

Route 1, Box 9

Fort Stockton, Texas 79735

(Mr. Moody is being reappointed.)

TO BE MEMBERS OF THE TEXAS TURNPIKE AUTHORITY:

For a term to expire February 15, 1989:

R. J. (Dick) LINDLEY, JR.

2007 Corral

Houston, Texas 77090

(Mr. Lindley is replacing Mr. Beeman Fisher of Fort Worth, Tarrant County, Texas, whose term expired.)

For a term to expire February 15, 1989:

C. C. SMITHERMAN

855 Uvalde

Houston, Texas 77015

(Mr. Smitherman is replacing Mr. Joe Foy of Houston, Harris County, Texas, whose term expired.)

Respectfully submitted,

/s/Mark White

Governor of Texas

**SESSION TO CONSIDER EXECUTIVE
APPOINTMENTS**

The President announced the time had arrived to consider the Executive appointments to agencies, boards and commissions. Notice of submission of these names for consideration was given by Senator Howard yesterday.

NOMINEES CONFIRMED

Senator Howard moved confirmation of the nominees reported yesterday by the Subcommittee on Nominations.

The President asked if there were requests to sever nominees.

There were no requests offered.

The following nominees, as reported by the Subcommittee on Nominations, were confirmed by the following vote: Yeas 30, Nays 0.

Absent-excused: Washington.

Member, Texas Aeronautics Commission: JACK H. McCREARY, Travis County.

Members, Texas Board of Health: ARTHUR L. RAINES, M.D., Johnson County; MAX M. STETTNER, D.O., Lubbock County.

Member, Texas Low-Level Radioactive Waste Disposal Authority: WILLIAM L. FISHER, Ph.D., Travis County.

Member, Public Safety Commission: SHANNON HARRISON RATLIFF, Travis County.

Member, Texas College and University System Coordinating Board: GARY LYNN WATKINS, Ector County.

Judge, 335th Judicial District: HAROLD ROBERT TOWSLEE, Burleson County.

Members, Texas Historical Commission: MRS. MAXINE E. FLOURNOY, Jim Wells County; HARRY A. GOLEMON, Harris County; MRS. MARTHA GAY KOKERNOT RATLIFF, Travis County; MRS. EVANGELINE LOESSIN WHORTON, Galveston County.

Member, Texas Merit System Council: MORRIS XAVIER WINN, Williamson County.

Member, Metric System Advisory Council: CHARLES E. HADDOCK, Dallas County.

Members, Board of Directors, Trinity River Authority: WINSTON BOYD VISER, Madison County; T. WALTER ERWIN III, Ellis County.

BILLS AND RESOLUTIONS SIGNED

The President announced the signing in the presence of the Senate, after the caption had been read, the following enrolled bills and resolutions:

H.B. 1020
H.B. 1376
H.B. 1406
H.C.R. 139
H.C.R. 156
H.C.R. 178
H.C.R. 186
H.C.R. 187
H.C.R. 188
H.C.R. 193
H.C.R. 196
H.C.R. 234
H.C.R. 235

MOTION TO PLACE HOUSE BILL 701 ON THIRD READING

Senator Glasgow moved to suspend the regular order of business to take up for consideration at this time on its third reading and final passage:

H.B. 701, Relating to the control of brucellosis and other animal diseases; providing penalties.

The motion was lost by the following vote: Yeas 18, Nays 10. (Not receiving two-thirds vote of the Members present)

Yeas: Brown, Caperton, Doggett, Edwards, Farabee, Glasgow, Harris, Henderson, Howard, Jones, Leedom, Lyon, McFarland, Montford, Parmer, Sarpalius, Sims, Whitmire.

Nays: Blake, Brooks, Kothmann, Mauzy, Sharp, Traeger, Truan, Uribe, Vale, Williams.

Absent: Parker, Santiesteban.

Absent-excused: Washington.

SENATE BILL 1098 ON THIRD READING

Senator Doggett moved to suspend the regular order of business to take up for consideration at this time on its third reading and final passage:

S.B. 1098, Relating to the composition of the State Purchasing and General Services Commission, and the method of selecting vendors under bids awarded to other than the low-bidding single vendor.

The motion prevailed by the following vote: Yeas 22, Nays 6.

Yeas: Blake, Brooks, Caperton, Doggett, Edwards, Farabee, Glasgow, Howard, Kothmann, Leedom, Lyon, Mauzy, McFarland, Montford, Parmer, Sharp, Traeger, Truan, Uribe, Vale, Whitmire, Williams.

Nays: Brown, Harris, Henderson, Jones, Sarpalius, Sims.

Absent: Parker, Santiesteban.

Absent-excused: Washington.

The bill was read third time and was finally passed.

RECORD OF VOTE

Senator Harris asked to be recorded as voting "Nay" on the final passage of the bill.

MESSAGE FROM THE HOUSE

House Chamber
May 12, 1983

HONORABLE W. P. HOBBY
PRESIDENT OF THE SENATE

SIR: I am directed by the House to inform the Senate that the House has passed the following:

The House has refused to concur in Senate amendments to **H.B. 1121** and appoints the following Conference Committee: Schlueter, Chairman; Lee of Harris, Saunders, Messer, Wilson.

The House has granted the request of the Senate for appointment of a Conference Committee on **S.B. 612**. House conferees: Wright, Chairman; Hammond, Arnold, Patronella, Russell.

The House has granted the request of the Senate for appointment of a Conference Committee on **S.B. 283**. House conferees: T. Smith, Chairman; Hightower, Granoff, Uher, Evans of Tarrant.

S.B. 682, Relating to the microfilm preservation of records made or received by local governments, to the preservation and retention of historical resources in a depository, and to the force and effect of such microfilm records.

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

VOTE RECONSIDERED BY WHICH NOMINEES CONFIRMED

On motion of Senator Howard and by unanimous consent, the vote by which the nominees were confirmed today was reconsidered.

Question - Shall the nominees considered today be confirmed?

Senator Howard moved confirmation of the nominees reported yesterday by the Subcommittee on Nominations.

The President asked if there were requests to sever nominees.

Senator Caperton requested that Winston Boyd Viser, to be a Member of Board of Directors, Trinity River Authority, be severed.

The request was granted.

NOMINEES CONFIRMED

The nominees not severed and as reported by the Subcommittee on Nominations were confirmed by the following vote: Yeas 30, Nays 0.

Absent-excused: Washington.

NOMINEE REJECTED

Question on the nomination of Winston Boyd Viser, the Senate refused to confirm Mr. Viser by the following vote: Yeas 0, Nays 30.

Absent-excused: Washington.

SENATOR ANNOUNCED PRESENT

Senator Washington who had previously been recorded as "Absent-excused" was announced "Present".

SENATE BILL 572 ON SECOND READING

On motion of Senator Montford and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

S.B. 572, Relating to the establishment of a program to attract to and retain in this state eminent scholars.

The bill was read second time.

Senator Montford offered the following committee amendment to the bill:

Add to Chapter 51, Texas Education Code, Subchapter I, Sec. 51.458 to read as follows:

"Sec. 51.458. INTENT. It is the intent of the legislature that, insofar as possible within constitutional and fiscal constraints, the program established by this subchapter shall operate in perpetuity."

The committee amendment was read and was adopted.

Senator Montford offered the following committee amendment to the bill:

Delete from Sec. 51.452, (1)(A), the following language:

" , other than The University of Texas at Austin and Texas A&M University, Main University"

And add the following language to (2), at the end of definition of "Eligible gift":

" ; provided, however, that a gift to The University of Texas at Austin or to the Texas A&M University campus in Brazos County that is otherwise eligible under this subchapter is not eligible if the governing board of either institution elects to match the gift under a program involving the use of matching monies from the Available University Fund."

The committee amendment was read and was adopted.

On motion of Senator Montford and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment.

SENATE BILL 572 ON THIRD READING

Senator Montford moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that S.B. 572 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Washington.

The bill was read third time and was passed.

SENATE BILL 950 ON THIRD READING

Senator Doggett moved to suspend the regular order of business to take up for consideration at this time on its third reading and final passage:

S.B. 950, Relating to the general prevailing rate of wages and fringe benefits paid to laborers on public works projects; providing a penalty.

The motion prevailed by the following vote: Yeas 21, Nays 10.

Yeas: Blake, Brooks, Caperton, Doggett, Edwards, Farabee, Glasgow, Kothmann, Lyon, Mauzy, McFarland, Parker, Parmer, Santiesteban, Sharp, Truan, Uribe, Vale, Washington, Whitmire, Williams.

Nays: Brown, Harris, Henderson, Howard, Jones, Leedom, Montford, Sarpalius, Sims, Traeger.

The bill was read third time and was finally passed by the following vote: Yeas 17, Nays 14.

Yeas: Brooks, Caperton, Doggett, Edwards, Kothmann, Lyon, Mauzy, McFarland, Parker, Parmer, Santiesteban, Truan, Uribe, Vale, Washington, Whitmire, Williams.

Nays: Blake, Brown, Farabee, Glasgow, Harris, Henderson, Howard, Jones, Leedom, Montford, Sarpalius, Sharp, Sims, Traeger.

MESSAGE FROM THE HOUSE

House Chamber
May 12, 1983

HONORABLE W. P. HOBBY
PRESIDENT OF THE SENATE

SIR: I am directed by the House to inform the Senate that the House has passed the following:

H.B. 2437, Relating to a pilot program for experimental liver transplants for infants and small children.

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

(Senator Vale in Chair)

SENATE BILL 294 WITH HOUSE AMENDMENTS

Senator Caperton called **S.B. 294** from the President's table for consideration of the House amendments to the bill.

The Presiding Officer laid the bill and the House amendments before the Senate.

Committee Amendment No. 1 - Wallace

Amend S.B. 294, on page 2; by striking lines 14-17 and substituting the following:

"3. All money collected under this Act shall be deposited in the Banking Department expense fund, which is created as a special fund in the state treasury. Money in the fund may be used only for the administration of this Act. Income earned on money deposited in the Banking Department expense fund shall be credited to that fund. [fees,

Committee Amendment No. 2 - Evans

Amend S.B. 294 as follows:

(1) On pages 2 and 3 strike Section 3 of Article 12 and substitute the following:

3. All sums of money paid to the Banking Department from any source shall be paid to the State Treasurer to be deposited in the State Treasury to the credit of a special fund to be known as the Banking Department Expense Fund. Income earned on money deposited to the credit of the fund shall be credited to that fund. [Fees, penalties and revenues collected by the Banking Department from every source whatsoever shall be retained and held by said Department, and no part of such fees, penalties and revenues shall ever be paid into the General Revenue Fund of this State.] All expenses incurred by the Banking Department shall be paid only from the Banking Department Expense Fund [such fees, penalties and revenues], and no such expense shall ever be a charge against any other [the] funds of this State. No part of the amount credited to the Banking Department Expense Fund may be transferred to the General Revenue Fund, and no amount may be transferred to the Banking Department Expense Fund from the General Revenue Fund.

4. Not later than June 1 of each even-numbered year, the Commissioner shall submit to the Finance Commission a proposed budget for operation of the Banking Department for the next state fiscal biennium. The Commission shall review the proposed budget and, not later than July 31 of that year, approve the budget with such amendments as the Commission considers appropriate. During each regular legislative session, the Commission shall submit certified copies of the approved budget to the Legislature. In appropriating money in the Banking Department Expense Fund, the Legislature may amend the budget as it considers appropriate. The Commission shall amend the budget as necessary to conform the budget to legislative appropriation.

5. The State Treasurer may disburse money from the Banking Department Expense Fund only on the written authorization of the Commissioner and only in accordance with the current Banking Department budget approved by the Finance Commission and by the Legislature in the General Appropriation Act or other applicable statute as provided by this Article. [The Finance Commission shall adopt, and from time to time amend, budgets which shall direct the purposes, and prescribe the amounts, for which the fees, penalties and revenues of the Banking Department shall be expended; and the Finance Commission shall, as of December 31, 1951, and annually thereafter, report to the Governor of the State of Texas the receipts and disbursements of the Banking Department for each calendar year, and shall within the first sixty (60) days of each succeeding Regular Session of the Legislature make a report to the appropriate committees of the House and Senate charged with considering legislation pertaining to banking.]

(2) Strike Section 8 of the bill and substitute the following:

SECTION 8. (a) Except as provided by Subsection (b) of this section, this Act takes effect September 1, 1983.

(b) Section 1 of this Act takes effect September 1, 1985, except that for purposes of preparation by the Banking Commissioner of Texas of a proposed budget for the 1985-1987 state fiscal biennium and action on that proposed budget by the Finance Commission of Texas, Section 1 takes effect January 1, 1984. All funds in the custody of the Banking Department that are subject to Article 12, Chapter I, The Texas Banking Code of 1943 (Article 342-112, Vernon's Texas Civil Statutes), on September 1, 1985, shall be transferred to the State Treasurer on that date for deposit to the credit of the Banking Department Expense Fund.

Committee Amendment No. 3 - Ragsdale

Amend S.B. 294, SECTION 4, page 5, line 23, by adding a new subsection 3 to proposed Article 13 to read as follows:

"3. The Banking Commissioner shall prepare and maintain a written plan to assure implementation of a program of equal employment opportunity whereby all personnel transactions are made without regard to race, color, disability, sex, religion, age, or national origin. The plans shall include:

(1) a comprehensive analysis of all the agency's workforce by race, sex, ethnic origin, class of position, and salary or wage;

(2) plans for recruitment, evaluation, selection, appointment, training, promotion and other personnel policies;

(3) steps reasonably designed to overcome any identified underutilization of minorities and women in the agency's workforce; and, (4) objectives and goals, timetables for the achievement of the objectives and goals, and assignments of responsibility for their achievement.

The plans shall be filed with the Governor's office within sixty days of the effective date of this Act, cover an annual period and be updated at least annually. Progress reports shall be submitted to the Governor's office within thirty days of November 1 and April 1 of each year and shall include the steps the agency has taken within the reporting period to comply with these requirements.

The amendments were read.

Senator Caperton moved that the Senate do not concur in the House amendments, but that a Conference Committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed.

The Presiding Officer (Senator Vale in Chair) asked if there were any motions to instruct the Conference Committee on S.B. 294 before appointment.

There were no motions offered.

The Presiding Officer announced the appointment of the following conferees on the part of the Senate on the bill: Senators Caperton, Chairman; Howard, Henderson, McFarland and Edwards.

COMMITTEE SUBSTITUTE SENATE BILL 429 ON SECOND READING

On motion of Senator Harris and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

C.S.S.B. 429, Relating to bank deposit agreements and disclosure of bank records.

The bill was read second time and was passed to engrossment.

COMMITTEE SUBSTITUTE SENATE BILL 429 ON THIRD READING

Senator Harris moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that C.S.S.B. 429 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Washington.

The bill was read third time and was passed.

COMMITTEE SUBSTITUTE SENATE BILL 456 ON SECOND READING

On motion of Senator Caperton and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

C.S.S.B. 456, Making an appropriation to the Texas Department of Corrections to pay utility costs incurred at its facilities.

The bill was read second time and was passed to engrossment.

COMMITTEE SUBSTITUTE SENATE BILL 456 ON THIRD READING

Senator Caperton moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that C.S.S.B. 456 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Washington.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

SENATE BILL 840 ON SECOND READING

On motion of Senator Leedom and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

S.B. 840, Relating to an increase in the amounts of certain fees in criminal cases.

The bill was read second time and was passed to engrossment.

SENATE BILL 840 ON THIRD READING

Senator Leedom moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that S.B. 840 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Washington.

The bill was read third time and was passed.

SENATE BILL 1078 ON SECOND READING

Senator Edwards asked unanimous consent to suspend the regular order of business to take up for consideration at this time:

S.B. 1078, To establish and implement an energy management loan fund for cities, counties, and Independent School Districts.

There was objection.

Senator Edwards then moved to suspend the regular order of business and take up **S.B. 1078** for consideration at this time.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Jones.

The bill was read second time.

Senator Edwards offered the following committee amendment to the bill:

Amend Section 3, DEFINITIONS, by adding the following:

(f) "Council" means the Texas Energy and Natural Resources Advisory Council, or the successor agency that administers the programs under part D of title III of the Energy Policy and Conservation Act (42 U.S.C. 6321 and following) and the program under part G of title III of the Energy Policy and Conservation Act (42 U.S.C. 6371 and following).

The committee amendment was read and was adopted.

Senator Edwards offered the following committee amendment to the bill:

Add the following:

Section 6. Insofar as funds from oil overcharge settlements are available, activities authorized by Section 4 shall be financed from that source.

Section 6 7. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended and that this Act take effect and be in force from and after its passage, and it is so enacted.

The committee amendment was read and was adopted.

On motion of Senator Edwards and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment.

SENATE BILL 1078 ON THIRD READING

Senator Edwards moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **S.B. 1078** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 2.

Yeas: Blake, Brooks, Brown, Caperton, Doggett, Edwards, Farabee, Glasgow, Harris, Henderson, Howard, Kothmann, Leedom, Lyon, Mauzy, McFarland, Montford, Parker, Parmer, Santiesteban, Sarpalius, Sharp, Sims, Traeger, Truan, Uribe, Vale, Whitmire, Williams.

Nays: Jones, Washington.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 1.

Nays: Jones.

SENATE BILL 1256 ON SECOND READING

On motion of Senator Uribe and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

S.B. 1256, Relating to an appropriation to the Texas Agriculture Experiment Station for research concerning the rice borer.

The bill was read second time and was passed to engrossment.

SENATE BILL 1256 ON THIRD READING

Senator Uribe moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **S.B. 1256** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Washington.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

MOTION TO PLACE**COMMITTEE SUBSTITUTE SENATE BILL 793 ON SECOND READING**

Senator Lyon moved to suspend the regular order of business to take up for consideration at this time:

C.S.S.B. 793, Relating to fire safety standards for convalescent and nursing homes and related institutions.

On motion of Senator Brooks and by unanimous consent, consideration of **C.S.S.B. 793** was postponed until 2:30 o'clock p.m. today.

COMMITTEE SUBSTITUTE SENATE BILL 898 ON SECOND READING

On motion of Senator Caperton and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

C.S.S.B. 898, Relating to venue in civil actions and providing mandatory venue and permissive venue, and repealing Article 2008, Revised Civil Statutes of Texas, 1925, as amended.

The bill was read second time.

Senator Caperton offered the following amendment to the bill:

Amend **C.S.S.B. 898** by striking all below the enacting clause and substituting in lieu thereof the following:

SECTION 1. Article 1995, Revised Civil Statutes of Texas, 1925, as amended, is revised to read as follows:

Article 1995. **VENUE**

Sec. 1. GENERAL RULE. All lawsuits, except as provided in Sections 2 and 3 of this article, shall be brought in the county where the cause of action or a part thereof accrued, or in the county of defendant's residence if defendant is a natural person.

Sec. 2. MANDATORY VENUE. (a) **Lands.** Actions for recovery of real property or an estate or interest in real property, or for partition of real property, or to remove encumbrances from the title to real property, or to quiet title to real

property, shall be brought in the county in which the property or a part of the property is located.

(b) Injunctions against suits. Actions to stay proceedings in a suit shall be brought in the county in which the suit is pending.

(c) Injunctions against executions. Actions to restrain execution of a judgment based on invalidity of the judgment or of the writ shall be brought in the county in which the judgment was rendered.

(d) Against state or head of state department. An action for mandamus against the head of a department of the state government shall be brought in Travis County.

(e) Against county. An action against a county shall be brought in that county.

(f) Other mandatory venue. An action governed by any other statute prescribing mandatory venue shall be brought in the county required by such statute.

(g) Libel, slander, or invasion of privacy. A suit for damages for libel, slander, or invasion of privacy shall be brought, and can only be maintained, in the county in which the plaintiff resided at the time of the accrual of the cause of action, or in the county where the defendant resided at the time of filing suit, or in the county of the residence of defendants, or any of them, or the domicile of any corporate defendant, at the election of the plaintiff.

Sec. 3. PERMISSIVE VENUE. (a) Executors, administrators, etc. If the suit is against an executor, administrator or guardian, as such, to establish a money demand against the estate which he represents, the suit may be brought in the county in which such estate is administered, or if the suit is against an executor, administrator or guardian growing out of a negligent act or omission of the person whose estate the executor, administrator or guardian represents, the suit may be brought in the county where the negligent act or omission of the person whose estate the executor, administrator or guardian represents occurred.

(b) Insurance. Suit against fire, marine or inland insurance companies may also be commenced in any county in which the insured property was situated. Suits on policies may be brought against any life insurance company, or accident insurance company, or life and accident, or health and accident, or life, health and accident insurance company, in the county where the home office of such company is located, or in the county where loss has occurred or where the policyholder or beneficiary instituting such suit resides.

(c) Breach of warranty by a manufacturer. Suits for breach of warranty by a manufacturer of consumer goods may be brought in any county where the cause of action or a part thereof accrued, or in any county where such manufacturer may have an agency or representative, or in the county in which the principal office of such company may be situated, or in the county where the plaintiff or plaintiffs reside.

(d) Railway personal injuries. Suits against railroad corporations, or against any assignee, trustee or receiver operating any railway in this State for damages arising from personal injuries, resulting in death or otherwise, shall be brought either in the county in which the injury occurred, or in the county in which the plaintiff resided at the time of the injury. If the defendant railroad corporation does not run or operate its railway in, or through, the county in which the plaintiff resided at the time of the injury, and has no agent in said county, then said suit shall be brought either in the county in which the injury occurred, or in the county nearest that in which the plaintiff resided at the time of the injury, in which the defendant corporation runs or operates its road, or has an agent. When an injury occurs within one-half mile of the boundary line dividing two counties, suit may be brought in either of said counties. If the plaintiff is a nonresident of this state then such suit

shall be brought in the county in which the injury occurred, or in the county in which the defendant railroad corporation has its principal office.

(e) Contract in writing. (1) Subject to the provisions of Subsection (2), if a person has contracted in writing to perform an obligation in a particular county, expressly naming such county, or a definite place therein, by such writing, suit upon or by reason of such obligation may be brought against him, either in such county or where the defendant has his domicile.

(2) In an action founded upon a contractual obligation of the defendant to pay money arising out of or based upon a consumer transaction for goods, services, loans, or extensions of credit intended primarily for personal, family, household or agricultural use, suit by a creditor upon or by reason of such obligation may be brought against the defendant either in the county in which the defendant in fact signed the contract, or in the county in which the defendant resides at the time of the commencement of the action. No term or statement contained in an obligation described in this subsection shall constitute a waiver of these provisions.

(f) Corporations and associations. Suits against a private corporation, association, partnership, or joint stock company may be brought in the county in which its principal office is situated; or in the county in which the cause of action or part thereof arose; or in the county in which the plaintiff resided at the time the cause of action or part thereof arose, provided such corporation, association, partnership, or joint stock company has an agency or representative in such county; or, if the corporation, association, partnership, or joint stock company had no agency or representative in the county in which the plaintiff resided at the time the cause of action or part thereof arose, then suit may be brought in the county nearest that in which plaintiff resided at said time in which the corporation, association, partnership, or joint stock company then had an agency or representative. Suits against a railroad corporation, or against any assignee, trustee or receiver operating its railway, may also be brought in any county through or into which the railroad of such corporation extends or is operated. Suits against receivers of persons and corporations may also be brought as otherwise provided by law.

(g) Foreign corporations. Foreign corporations, private or public, joint stock companies or associations, not incorporated by the laws of this State, and doing business within this State, may be sued in any county where the cause of action or a part thereof accrued; or in any county where such company may have an agency or representative, or in the county in which the principal office of such company may be situated; or, when the defendant corporation has no agent or representative in this State, then in the county where the plaintiffs or either of them, reside.

(h) Other permissive venue. An action governed by any other statute prescribing permissive venue may be brought in the county allowed by such statute.

(i) Transient persons. A transient person may be sued in any county in which he may be found.

(j) Nonresidents; residence unknown. If one or all of several defendants reside without the State or if their residence is unknown, suit may be brought in the county in which the plaintiff resides.

Sec. 4. GENERAL PROVISIONS. (a) Joinder of defendants or claims. When two or more parties are joined as defendants in the same action and/or two or more claims or causes of action are properly joined in one action, and the court has venue of an action or claim against any one defendant the court also has venue of all claims or actions against all defendants unless one or more of the claims or causes of action is governed by one of the provisions of Section 2 of this article requiring transfer of such claim or cause of action, upon proper objection, to the mandatory county.

(b) Counterclaims, cross-claims and third party claims. Venue of the main action shall establish venue of a counterclaim, cross-claim or third party claim properly joined under the Texas Rules of Civil Procedure.

(c) Transfer. The court, upon motion filed and served concurrently with or before the filing of the answer, shall transfer an action to another county of proper venue where:

(1) The county where the action is pending is not a proper county as provided by this Act; or

(2) an impartial trial cannot be had in the county where the action is pending; or

(3) written consent of the parties to transfer to any other county is filed at any time.

(d) Hearings. (1) In all venue hearings, no factual proof concerning the merits of the case shall be required to establish venue; the court shall determine venue questions from the pleadings and affidavits. No interlocutory appeal shall lie from such determination.

(2) On appeal from the trial on the merits, if venue was improper it shall in no event be harmless error and shall be reversible error. In determining whether venue was or was not proper the appellate court shall consider the entire record, including the trial on the merits.

SECTION 2. Article 2008, Revised Civil Statutes of Texas, 1925, as amended, is repealed.

SECTION 3. This Act takes effect September 1, 1983, and shall not apply to pending appeals on venue questions. For the purpose of appeals on venue questions pending prior to September 1, 1983, the former law is continued in effect.

SECTION 4. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The amendment was read and was adopted.

On motion of Senator Caperton and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment.

COMMITTEE SUBSTITUTE SENATE BILL 898 ON THIRD READING

Senator Caperton moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that C.S.S.B. 898 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Washington.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

(President in Chair)

SENATE RESOLUTION 605

Senator Caperton offered the following resolution:

S.R. 605, Commending Dr. Milton L. Holloway for his many contributions to the State of Texas.

The resolution was read and was adopted.

On motion of Senator Santiesteban and by unanimous consent, the names of the Lieutenant Governor and Senators were added to the resolution as signers thereof.

GUEST OF SENATE

Dr. Holloway was escorted to the President's Rostrum by Senator Caperton and was presented an enrolled copy of S.R. 605 by the President.

RECESS

On motion of Senator Mauzy, the Senate at 12:05 o'clock p.m. took recess until 1:30 o'clock p.m. today.

AFTER RECESS

The Senate met at 1:30 o'clock p.m. and was called to order by the President.

CONFERENCE COMMITTEE REPORT SENATE BILL 283

Senator Santiesteban submitted the following Conference Committee Report:

Austin, Texas
May 12, 1983

Honorable William P. Hobby
President of the Senate

Honorable Gibson D. "Gib" Lewis
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on S.B. 283 have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

SANTIESTEBAN
VALE
WASHINGTON
LYON
URIBE

On the part of the Senate

T. SMITH
GRANOFF
UHER
HIGHTOWER
C. EVANS

On the part of the House

A BILL TO BE ENTITLED AN ACT

relating to the effect of the value of property or service stolen, damaged, or destroyed on the penalty imposed for theft, theft of service, or criminal mischief.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 1. Section 28.03(b), Penal Code, is amended to read as follows:

(b) An offense under this section is:

(1) a Class C misdemeanor if:

(A) the amount of pecuniary loss is less than \$20 [\$5]; or

(B) except as provided in Subdivision (4)(B) of this subsection, it causes substantial inconvenience to others;

"(2) a Class B misdemeanor if the amount of pecuniary loss is \$20 [\$5] or more but less than \$200 [\$20];

(3) a Class A misdemeanor if the amount of pecuniary loss is \$200 [\$20] or more but less than \$750 [\$200];

(4) a felony of the third degree if:

(A) the amount of pecuniary loss is \$750 [\$200] or more but less than \$20,000 [\$10,000];

(B) regardless of the amount of pecuniary loss, the actor causes in whole or in part impairment or interruption of public communications, public transportation, public water, gas, or power supply, or other public service, or diverts, or causes to be diverted in whole, in part, or in any manner, including installation or removal of any device for such purpose, any public communications, public water, gas, or power supply;

(C) regardless of the amount of pecuniary loss, the property is one or more head of cattle, horses, sheep, swine, or goats;

(D) regardless of the amount of pecuniary loss, the property was a fence used for the production of cattle, horses, sheep, swine, or goats; or

(E) regardless of the amount of pecuniary loss, the damage or destruction was inflicted by branding one or more head of cattle, horses, sheep, swine, or goats.

(5) a felony of the second degree if the amount of the pecuniary loss is \$20,000 [\$10,000] or more.

SECTION 2.

Section 28.06(d), Penal Code, is amended to read as follows:

(d) If the amount of pecuniary loss cannot be ascertained by the criteria set forth in Subsections (a) through (c) of this section, the amount of loss is deemed to be greater than \$200 [\$20] but less than \$750 [\$200].

SECTION 3. Section 31.03(d), Penal Code, is amended to read as follows:

(d) An offense under this section is:

(1) a Class C misdemeanor if the value of the property stolen is less than \$20 [\$5];

(2) a Class B misdemeanor if:

(A) the value of the property stolen is \$20 [\$5] or more but less than \$200 [\$20]; or

(B) the value of the property stolen is less than \$20 [\$5] and the defendant has previously been convicted of any grade of theft;

(3) a Class A misdemeanor if the value of the property stolen is \$200 [\$20] or more but less than \$750 [\$200];

(4) a felony of the third degree if:

(A) the value of the property stolen is \$750 [\$200] or more but less than \$20,000, [\$10,000], or the property is one or more head of cattle, horses, sheep, swine, or goats or any part thereof under the value of \$20,000 [\$10,000];

(B) regardless of value, the property is stolen from the person of another or from a human corpse or grave; or

(C) the value of the property stolen is less than \$1,000 [\$200] and the defendant has been previously convicted two or more times of any grade of theft; or

(5) a felony of the second degree if:

(A) regardless of the value, the property is combustible hydrocarbon natural or synthetic natural gas, crude petroleum oil, or equipment designed for use in exploration for or production of natural gas or crude petroleum oil;

(B) the value of the property stolen is \$20,000 [\$10,000] or more; or

(C) regardless of the value, the property was unlawfully appropriated or attempted to be unlawfully appropriated by threat to commit a felony offense against the person or property of the person threatened or another or to withhold information about the location or purported location of a bomb, poison, or other harmful object that threatens to harm the person or property of the person threatened or another person.

SECTION 4. Section 31.04(e), Penal Code, is amended to read as follows:

- (e) An offense under this section is:
- (1) a Class C misdemeanor if the value of the service stolen is less than \$20 [~~\$5~~];
 - (2) a Class B misdemeanor if the value of the service stolen is \$20 [~~\$5~~] or more but less than \$200 [~~\$20~~];
 - (3) a Class A misdemeanor if the value of the service stolen is \$200 [~~\$20~~] or more but less than \$750 [~~\$200~~];
 - (4) a felony of the third degree if the value of the service stolen is \$750 [~~\$200~~] or more but less than \$20,000 [~~\$10,000~~];
 - (5) a felony of the second degree if the value of the service stolen is \$20,000 [~~\$10,000~~] or more.

SECTION 5. Section 31.08(c), Penal Code, is amended to read as follows:

(c) If property or service has value that cannot be reasonably ascertained by the criteria set forth in Subsections (a) and (b) of this section, the property or service is deemed to have a value of more than \$200 [~~\$20~~] but less than \$750 [~~\$200~~].

SECTION 6. (a) The change in law made by this Act applies only to the classification of an offense committed on or after the effective date of this Act. For purposes of this section, an offense is committed before the effective date of this Act if any element of the offense occurs before the effective date.

(b) An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for this purpose.

SECTION 7. This Act takes effect September 1, 1983.

SECTION 8. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The Conference Committee Report was read and was filed with the Secretary of the Senate.

CONFERENCE COMMITTEE REPORT SENATE BILL 612

Senator McFarland submitted the following Conference Committee Report:

Austin, Texas
May 11, 1983

Honorable William P. Hobby
President of the Senate

Honorable Gibson D. "Gib" Lewis
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **S.B. 612** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

McFARLAND
BROOKS
BROWN
JONES
PARKER
On the part of the Senate

WRIGHT
RUSSELL
ARNOLD
PATRONELLA
HAMMOND
On the part of the House

**A BILL TO BE ENTITLED
AN ACT**

relating to the administration, powers, duties, and funding of higher education authorities and to the authority of the governing body of home-rule cities to allow a nonprofit corporation to act on its behalf in certain acquisitions or construction, and to the powers, duties, and procedures of such nonprofit corporations; amending Sections 53.14, 53.33, 53.34, 53.35, and 53.47; and Section 53.02 by amending Subdivision (5) and adding Subdivision (11); Subchapter B, Chapter 53, by adding Section 53.131; and Subchapter C, Chapter 53, by adding Section 53.331, Texas Education Code, as amended.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subdivision (5), Section 53.02, Texas Education Code, as amended, is amended to read as follows:

“(5) ‘Institution of higher education’ means either a degree-granting college or university corporation accredited by the Texas Education Agency or by a recognized accrediting agency, as defined by Subdivision (12) of Section 61.003 of this code, or a postsecondary proprietary school accredited by the Association of Independent Colleges and Schools, the National Association of Trade and Technical Schools, or the National Accrediting Commission of Cosmetology Arts and Sciences.”

SECTION 2. Section 53.02, Texas Education Code, as amended, is amended by adding Subdivision (11) to read as follows:

“(11) ‘Repurchase agreement’ means a simultaneous agreement between a higher education authority and another entity in which one of the parties has agreed to purchase investment securities on a specified date and the other party has agreed to repurchase the investment securities at the same price plus accrued interest on a later date, in which the market value of the investment securities purchased is in excess of the amount of the repurchase agreement, and in which the investment securities are so purchased and held separately from all other investment securities, in trust, in order to complete the contractual commitment.”

SECTION 3. Subchapter B, Chapter 53, Texas Education Code, as amended, is amended by adding Section 53.131 to read as follows:

“Section 53.131. AUTHORITY’S EARNINGS. A private person may not share in any of an authority’s earnings.”

SECTION 4. Section 53.14, Texas Education Code, is amended to read as follows:

“Section 53.14. BOARD OF DIRECTORS. (a) The authority shall be governed by a board of directors consisting of not less than 7 nor more than 11 members to be determined at the time of creating the authority. The [Except as otherwise provided by this section, the first] directors shall be appointed by the governing body of the city or by the governing bodies of the cities, and they shall serve until their successors are appointed as provided by this section. If the authority includes more than one city, each governing body shall appoint an equal number of directors unless otherwise agreed by the cities.

“(b) ~~[When the authority issues its revenue bonds, the resolution authorizing the issuance of the bonds or the trust indenture securing them may prescribe the method of selecting and the term of office of a majority of the members of the board.]~~ The [remaining] members of the board serve ~~[shall be appointed by the governing body of the city or the governing bodies of the cities]~~ for two-year terms. ~~[The trust indenture may also provide that, in event of default as defined in the trust indenture, the trustee may appoint all of the directors, in which event the terms of the directors then in office shall automatically terminate.]~~

“(c) ~~[Unless and until provision is made in the bond resolution or indenture in connection with the issuance of bonds for the appointment by other means of~~

~~part of the directors, all the directors shall be appointed by the governing body of the city or each of the cities, as the case may be, for terms not to exceed two years, but the terms of directors appointed prior to the issuance of the first issue of revenue bonds shall be subject to the exercise of the provision made by this section for appointment of a majority of the members of the board in connection with the issuance of the bonds.~~

~~"[(d)] No officer or employee of any such city is eligible for appointment as a director. Directors are not entitled to compensation for services but are entitled to reimbursement for expenses incurred in performing such service.~~

~~"[(e)] In the event the authority purchases from a nonprofit corporation an educational facility or a housing facility for students, faculty, or staff members, which facility or facilities are then in existence or in process of construction, the first members of the board of directors and their successors shall be determined as provided in the contract of purchase.]"~~

SECTION 5. Section 53.33, Texas Education Code, is amended to read as follows:

"Section 53.33. FACILITIES: CONSTRUCTION, ACQUISITION, ETC. The authority may acquire by purchase, purchase contract, or lease, ~~or~~ may construct, or may enlarge, extend, repair, renovate, or otherwise improve educational facilities or housing facilities. It may acquire land for those purposes, furnish and equip the facilities, and provide by contract, lease, or otherwise for the operation and maintenance of the facilities. The facilities need not be located within the city limits of the city or cities."

SECTION 6. Subchapter C, Chapter 53, Texas Education Code, is amended by adding Section 53.331 to read as follows:

"Section 53.331. REFINANCING FACILITIES. The authority may refinance any educational or housing facility acquired, constructed, or improved."

SECTION 7. Section 53.34, Texas Education Code, is amended to read as follows:

"Section 53.34. REVENUE BONDS. (a) The authority may issue revenue bonds to provide funds for any of its purposes. In issuing revenue bonds, the authority is considered to be acting on behalf of any city by which it was created.

"(b) The bonds shall be payable from and secured by a pledge of the net revenue to be derived from the operation of the facility or facilities and any other revenue resulting from the ownership of the educational facilities properties. The bonds may be additionally secured by a mortgage or deed of trust on real property of the authority or by a chattel mortgage on its personal property, or by both."

SECTION 8. Section 53.35, Texas Education Code, is amended to read as follows:

"Section 53.35. ISSUANCE OF BONDS; PROCEDURES; ETC. (a) The bonds shall be authorized by resolution adopted by a majority vote of a quorum of the board~~[-and shall be signed by the president or vice president and countersigned by the secretary, or either or both of their facsimile signatures may be printed on them].~~ Bonds authorized under this section shall be issued in accordance with Chapter 845, Acts of the 67th Legislature, Regular Session, 1981 (Article 717k-6, Vernon's Texas Civil Statutes). ~~[The seal of the authority shall be impressed or printed on the bonds.]~~ The bonds shall mature serially or otherwise in not to exceed 50 years. ~~The [and may be sold at a price and under terms determined by the board to be the most advantageous reasonably obtainable, provided that the] rate of interest to be borne by the bonds shall not exceed the maximum rate prescribed by Chapter 3, Acts of the 61st Legislature, Regular Session, 1969 (Article 717k-2, Vernon's Texas Civil Statutes) [six and one-half percent per annum and that the bonds shall not be sold at less than 90 percent of their par or face value, plus accrued interest. Within the discretion of the board, the bonds may be made callable prior~~

to maturity at any times and prices prescribed in the resolution authorizing the bonds, and may be made registrable as to principal or as to both principal and interest].”

“(b) In addition to or in lieu of establishing an authority under the provisions of this chapter, the governing body of a home-rule city or cities may request or order created a nonprofit corporation to act on its behalf and as its duly constituted authority and instrumentality to exercise the powers granted to an authority under the provisions of Section 53.33, Texas Education Code. If a nonprofit corporation is created for such purposes or agrees to such request, the directors thereof shall thereafter be appointed and be subject to removal by the governing body of the home-rule city or cities. In addition to the powers of lease or acquisition of facilities granted under Section 53.33, the corporation shall have all powers granted under the Texas Non-Profit Corporation Act for the purpose of aiding institutions of higher education in providing educational facilities and housing facilities and facilities incidental, subordinate, or related thereto or appropriate in connection therewith. In addition to the provisions of Section 53.33 and the Texas Non-Profit Corporation Act, as amended (Article 1396-1.01, Vernon’s Texas Civil Statutes), Sections 53.131, 53.14, 53.15, 53.31, 53.32, 53.331, 53.34, 53.35, 53.38 and 53.41, Texas Education Code, shall apply to and govern such corporation, its procedures and bonds.”

SECTION 9. Section 53.47, Texas Education Code, as amended, is amended to read as follows:

“Section 53.47. BONDS FOR THE PURCHASE OF [STUDENT] LOAN NOTES. (a) An authority [~~heretofore created~~] may, upon approval of the city or cities which created the same, issue revenue bonds or otherwise borrow money to obtain funds to purchase or to make student or parent loan notes which are guaranteed under the provisions of the Higher Education Act of 1965 (Public Law 89-329). Revenue bonds issued for such purpose shall be issued in accordance with and with the effect provided in this chapter, except Section 53.36 shall not apply, as said chapter has been modified by Chapter 3, Acts of the 61st Legislature, Regular Session, 1969, as amended (Article 717k-2, Vernon’s Texas Civil Statutes), and by Chapter 784, Acts of the 61st Legislature, Regular Session, 1969 (Article 717k-3, Vernon’s Texas Civil Statutes). Such bonds shall be payable from and secured by a pledge of revenues derived from or by reason of the ownership of student or parent loan notes and investment income after deduction of such expenses or operating the loan program as may be specified by the bond resolution or trust indenture.

“(b) An [The] authority that is not an eligible lender under the Higher Education Act of 1965, acting through a bank with trust powers, may cause money [bond proceeds] to be expended to purchase for its account student or parent loan notes executed by or on behalf of students who (1) are residents of this state or (2) who have been admitted to attend an accredited institution within this state. An accredited institution shall mean an institution which has either been recognized by a recognized accrediting agency, as defined by Section 61.003(12) of the Texas Education Code, or accredited by the Association of Independent Colleges and Schools, the National Association of Trade and Technical Schools, or the National Accrediting Commission of Cosmetology Arts and Sciences.

“(c) The authority shall contract with a nonprofit corporation, organized under the laws of this state, whereby such corporation will provide the reports and other information required for continued participation in the federally guaranteed loan program provided by the Higher Education Act of 1965 (Public Law 89-329). The custody of student or parent loan notes, purchased by the bank on behalf of the authority, shall remain under the control of [~~be held by~~] a bank with trust powers [~~located within this state~~].

"(d) The authority, as a municipal corporation of the state, is charged with a portion of the responsibility of the state to provide educational opportunities in keeping with all applicable state and federal laws. Nothing in this section shall be construed as a prohibition against establishing policies to limit the purchase of notes to notes executed by students attending school in a certain geographical area or by students who are residents of the area.

"(e) In addition to ~~lieu of~~ establishing an authority under the provisions of this chapter, the governing body of a home-rule city or cities may request a nonprofit corporation organized to exercise the powers enumerated and provided in this section for and on its behalf. If the corporation agrees to exercise such powers, the directors of such corporation shall thereafter be appointed by and be subject to removal by the governing body of the home-rule city or cities, and except as herein provided, Sections 53.14, 53.15, 53.31, 53.32, 53.38, and 53.41 through 53.43 of the Texas Education Code shall apply to and govern such corporation, its procedures, and bonds. Notwithstanding the provisions of Section 53.42, a nonprofit corporation which has been requested to exercise the powers enumerated and requested in this section may invest or cause a trustee or custodian on behalf of such nonprofit corporation, to invest the proceeds of any bonds, notes, or other obligations issued by such nonprofit corporation and any monies which are pledged to the payment thereof in: "(1) ~~government obligations (as defined hereinbelow);~~ (2) certificates of deposit or other time or demand accounts of banks and savings and loan associations which are insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation, provided the amount of any certificate of deposit in excess of that covered by such insurance must be secured by a first and prior pledge of government obligations having a market value of not less than 100 percent of the excess unless a nationally recognized rating agency has given the senior securities of the bank issuing the certificate of deposit the highest or next to the highest investment rating available;

"(2) repurchase agreements;

"(3) investment securities, as defined by Chapter 726, Acts of the 67th Legislature, Regular Session, 1981 (Article 2529b-1, Vernon's Texas Civil Statutes);
or

"(4) a collective investment fund that is created as provided by Regulation 9 of the Office of the Comptroller of the Currency and that is invested in one or more types of investment securities or repurchase agreements. [For purposes of this paragraph 'government obligations' means any of the following which at the time of investment are legal investments under the laws of the state for the monies proposed to be invested therein:

"[(1) direct general obligations of, or obligations the payment of the principal and interest of which are unconditionally guaranteed by, the United States of America;

"[(2) bonds, debentures, or notes issued by any one or a combination of any of the following federal agencies: federal financing bank.]"

SECTION 10. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

The Conference Committee Report was read and was filed with the Secretary of the Senate.

(Senator Edwards in Chair)

COMMITTEE SUBSTITUTE SENATE BILL 651 ON SECOND READING

On motion of Senator Glasgow and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

C.S.S.B. 651, Relating to offenses against public administration and offenses involving the abuse of office or employment, including theft, by a public servant; providing penalties.

The bill was read second time and was passed to engrossment.

COMMITTEE SUBSTITUTE SENATE BILL 651 ON THIRD READING

Senator Glasgow moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **C.S.S.B. 651** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 26, Nays 1.

Nays: Washington.

Absent: Harris, Parker, Santiesteban, Whitmire.

The bill was read third time and was passed.

SENATE BILL 41 ON SECOND READING

Senator Mauzy asked unanimous consent to suspend the regular order of business to take up for consideration at this time:

S.B. 41, Relating to required disclosure of financial interests, activities, and gifts by elective county officers and candidates for elective county office; providing standards of conduct; providing a penalty.

There was objection.

Senator Mauzy then moved to suspend the regular order of business and take up **S.B. 41** for consideration at this time.

The motion prevailed by the following vote: Yeas 23, Nays 7.

Yeas: Blake, Brooks, Brown, Caperton, Doggett, Edwards, Henderson, Kothmann, Leedom, Lyon, Mauzy, McFarland, Parker, Parmer, Santiesteban, Sharp, Traeger, Truan, Uribe, Vale, Washington, Whitmire, Williams.

Nays: Farabee, Glasgow, Howard, Jones, Montford, Sarpalius, Sims.

Absent: Harris.

The bill was read second time.

Senator Glasgow offered the following amendment to the bill:

Floor Amendment No. 1

Amend **S.B. 41** by adding between lines 19 and 20 a new section 1A to read as follows:

SECTION 1A. APPLICABILITY. This act shall apply only to counties with a population of 200,000 or more according to the most recent federal decennial census.

The amendment was read.

On motion of Senator Vale, the amendment was tabled by the following vote: Yeas 19, Nays 10.

Yeas: Blake, Brooks, Brown, Doggett, Henderson, Kothmann, Leedom, Lyon, Mauzy, McFarland, Parker, Parmer, Santiesteban, Sharp, Traeger, Truan, Vale, Washington, Whitmire.

Nays: Caperton, Edwards, Farabee, Glasgow, Howard, Jones, Montford, Sarpalius, Sims, Williams.

Absent: Harris, Uribe.

Senator Glasgow offered the following amendment to the bill:

Floor Amendment No. 2

Amend S.B. 41 by adding between lines 19 and 20 a new section 1A to read as follows:

SECTION 1A. APPLICABILITY. This act shall apply only to counties with a population of 50,000 or more according to the most recent federal decennial census.

The amendment was read.

On motion of Senator Vale, the amendment was tabled by the following vote: Yeas 18, Nays 12.

Yeas: Blake, Brooks, Brown, Doggett, Kothmann, Leedom, Lyon, Mauzy, McFarland, Parker, Parmer, Santiesteban, Sharp, Truan, Uribe, Vale, Washington, Whitmire.

Nays: Caperton, Edwards, Farabee, Glasgow, Henderson, Howard, Jones, Montford, Sarpalius, Sims, Traeger, Williams.

Absent: Harris.

Senator Glasgow offered the following amendment to the bill:

Floor Amendment No. 3

Amend S.B. 41 by adding between lines 19 and 20 a new section 1A to read as follows:

SECTION 1A. APPLICABILITY. This act shall apply only to counties with a population of 20,000 or more according to the most recent federal decennial census.

The amendment was read.

On motion of Senator Parmer, the amendment was tabled by the following vote: Yeas 19, Nays 11.

Yeas: Blake, Brooks, Brown, Doggett, Henderson, Kothmann, Leedom, Lyon, Mauzy, McFarland, Parker, Parmer, Santiesteban, Sharp, Truan, Uribe, Vale, Washington, Whitmire.

Nays: Caperton, Edwards, Farabee, Glasgow, Howard, Jones, Montford, Sarpalius, Sims, Traeger, Williams.

Absent: Harris.

The bill was passed to engrossment by the following vote: Yeas 19, Nays 11.

Yeas: Blake, Brooks, Brown, Doggett, Edwards, Henderson, Kothmann, Leedom, Lyon, Mauzy, McFarland, Parker, Parmer, Santiesteban, Truan, Uribe, Vale, Washington, Whitmire.

Nays: Caperton, Farabee, Glasgow, Howard, Jones, Montford, Sarpalius, Sharp, Sims, Traeger, Williams.

Absent: Harris.

MOTION TO PLACE SENATE BILL 41 ON THIRD READING

Senator Mauzy moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that S.B. 41 be placed on its third reading and final passage.

The motion was lost by the following vote: Yeas 19, Nays 12. (Not receiving four-fifths vote of the Members present)

Yeas: Blake, Brooks, Brown, Caperton, Doggett, Edwards, Henderson, Kothmann, Leedom, Lyon, Mauzy, McFarland, Parker, Parmer, Santiesteban, Truan, Uribe, Vale, Whitmire.

Nays: Farabee, Glasgow, Harris, Howard, Jones, Montford, Sarpalius, Sharp, Sims, Traeger, Washington, Williams.

COMMITTEE SUBSTITUTE SENATE BILL 78 ON SECOND READING

On motion of Senator Brooks and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

C.S.S.B. 78, Relating to the prevention and treatment of alcohol abuse and alcoholism.

The bill was read second time.

Senator Brooks offered the following amendment to the bill:

Amend **C.S.S.B. 78** as follows:

- (1) Delete line 46 of page 8 and substitute in lieu thereof the following:
“the person examined evidences signs and symptoms at this time of an alcohol-induced disorder”
- (2) Insert the following after the period on line 41 of page 11:
“If the constitutional county court has a judge who is a licensed attorney, the proceedings pursuant to this section may be held in that court.”
- (3) Delete SECTION 5 in its entirety on page 24 and renumber the remaining sections accordingly.

The amendment was read and was adopted.

On motion of Senator Brooks and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment.

COMMITTEE SUBSTITUTE SENATE BILL 78 ON THIRD READING

Senator Brooks moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **C.S.S.B. 78** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Washington.

The bill was read third time and was passed.

MOTION TO PLACE SENATE BILL 844 ON SECOND READING

Senator Williams asked unanimous consent to suspend the regular order of business to take up for consideration at this time:

S.B. 844, Relating to the collection of delinquent property taxes.

There was objection.

Senator Williams then moved to suspend the regular order of business and take up **S.B. 844** for consideration at this time.

The motion was lost by the following vote: Yeas 16, Nays 13. (Not receiving two-thirds vote of the Members present)

Yeas: Brooks, Brown, Doggett, Farabee, Glasgow, Henderson, Howard, Jones, Leedom, McFarland, Santiesteban, Sarpalius, Sharp, Sims, Whitmire, Williams.

Nays: Blake, Caperton, Edwards, Harris, Kothmann, Lyon, Mauzy, Montford, Parker, Parmer, Truan, Vale, Washington.

Absent: Traeger, Uribe.

COMMITTEE SUBSTITUTE SENATE BILL 793 ON SECOND READING

On motion of Senator Lyon and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

C.S.S.B. 793, Relating to fire safety standards for convalescent and nursing homes and related institutions.

The bill was read second time.

(Senator Vale in Chair)

Senator Brooks offered the following amendment to the bill:

Floor Amendment No. 1

C.S.S.B. 793 is amended by striking all language below the enacting clause and substituting therefor the following:

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

"SECTION 1. Section 4A, Chapter 413, Acts of the 53rd Legislature, Regular Session, 1953 (article 4442c, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 4A. **FIRE SAFETY REQUIREMENTS.** (a) The Licensing Agency shall require all institutions licensed under this Act to comply with the 1981 [nursing homes and custodial care homes and major additions over One Hundred Thousand Dollars (\$100,000) to existing nursing homes and custodial care homes which are approved for constructions or conversion after September 1, 1979, to comply with the 1976] edition of the Code for Safety to Life from Fire in Buildings and Structures, known as the Life Safety Code (Pamphlet No. 101) of the National Fire Protection Association. When determining whether an institution is in compliance with the Life Safety Code, the Licensing Agency may consider Appendix C of the code.

[(b) After September 1, 1979, these building sections of a licensed nursing home or custodial care home, regardless of ownership, which have complied with or without waiver, with either the 1967 or 1973 edition of the Life Safety Code of

~~the National Fire Protection Association will be recognized as meeting licensing requirements for fire safety as long as they continue to be in substantial compliance with either the 1967 or 1973 code edition.]~~

~~(b) [(c)]~~ The requirements of the section do not preclude an institution from conforming to a ~~higher or additional~~ later edition fire safety standard or provision where required by federal law or regulation. Where provisions of this section conflict with federal laws or regulations adopted after

December 4, 1980 ~~September 1, 1983~~ September 1, 1979, then the federal requirements prevail, if required for participation in federal programs.

~~(c) (d)~~^{oo} As provided in the ~~1976~~^{oo} 1981^{oo} edition of the Life Safety Code, the Licensing Agency shall have discretionary powers to grant exceptions to the code under certain conditions or in the interest of common uniform applicability.

~~[(c) Fire safety requirements for institutions other than nursing homes or custodial care homes shall be as determined by the licensing agency.]~~

SECTION 2. This Act takes effect September 1, 1983.

SECTION 3. The importance of this legislation and the crowded condition of the calendars in both Houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each House be suspended, and this rule is hereby suspended."

The amendment was read.

Senator Lyon moved to table the amendment.

The motion was lost by the following vote: Yeas 10, Nays 21.

Yeas: Blake, Doggett, Edwards, Howard, Kothmann, Lyon, Parmer, Santiesteban, Sarpalius, Washington.

Nays: Brooks, Brown, Caperton, Farabee, Glasgow, Harris, Henderson, Jones, Leedom, Mauzy, McFarland, Montford, Parker, Sharp, Sims, Traeger, Truan, Uribe, Vale, Whitmire, Williams.

Senator Lyon offered the following amendment to the Floor Amendment No. 1:

Floor Amendment No. 2

Amend Floor Amendment No. 1 of C.S.S.B. 793 by striking all language after the enacting clause and substituting the following:

SECTION 1. Section 4A, Chapter 413, Acts of the 53rd Legislature, Regular Session, 1953 (Article 4442c, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 4A. FIRE SAFETY REQUIREMENTS. (a) The Licensing Agency shall require all institutions licensed under this Act to comply with the 1981 ~~[nursing homes and custodial care homes and major additions over One Hundred Thousand Dollars (\$100,000) to existing nursing homes and custodial care homes which are approved for construction or conversion after September 1, 1979, to comply with the 1976]~~ edition of the Code for Safety to Life from Fire in Buildings and Structures, known as the Life Safety Code (Pamphlet No. 101) of the National Fire Protection Association.

~~[(b) After September 1, 1979, those building sections of a licensed nursing home or custodial care home, regardless of ownership, which have complied with or without waiver, with either the 1967 or 1973 edition of the Life Safety Code of the National Fire Protection Association will be recognized as meeting licensing requirements for fire safety as long as they continue to be in substantial compliance with either the 1967 or 1973 code edition.]~~

(b) ~~[(c)]~~ The requirements of this section do not preclude an institution from conforming to a higher or additional fire safety standard or provision where required by federal law or regulation. Where provisions of this section conflict with federal laws or regulations adopted after December 4, 1980 ~~[September 1, 1979]~~, then the federal requirements prevail, if required for participation in federal programs.

(c) To receive a waiver of compliance, an institution must file a written request with the Licensing Agency. If the institution requests a waiver of compliance based on the equivalency concepts in Section 1-5.1 or 1-5.2 of the Life Safety Code, the institution must clearly demonstrate equivalency in the written request.

(d) If the Licensing Agency approves a request for a waiver, the notice of approval must cite each provision of the Life Safety Code that is waived and the reasons that each provision was waived.

(e) If an institution changes ownership, the new owner must file a new request for a waiver of compliance not later than the 30th day after the date on which the institution changed ownership. If the owner does not file the request on time, the original waiver lapses. A new request for a waiver is governed by Subsections (c), (d), and (e) of this section.

~~[(d) As provided in the 1976 edition of the Life Safety Code, the Licensing Agency shall have discretionary powers to grant exceptions to the code under certain conditions or in the interest of common and uniform applicability.~~

~~[(e) Fire safety requirements for institutions other than nursing homes or custodial care homes shall be as determined by the Licensing Agency.]~~

SECTION 2. This Act takes effect September 1, 1983.

SECTION 3. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The amendment to Floor Amendment No. 1 was read and was adopted.

Question recurring on adoption of Floor Amendment No. 1 as amended, Floor Amendment No. 1 as amended was adopted.

On motion of Senator Lyon and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment.

COMMITTEE SUBSTITUTE SENATE BILL 793 ON THIRD READING

Senator Lyon moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that C.S.S.B. 793 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Washington.

The bill was read third time and was passed.

MESSAGE FROM THE HOUSE

House Chamber
May 12, 1983

HONORABLE W. P. HOBBY
PRESIDENT OF THE SENATE

SIR: I am directed by the House to inform the Senate that the House has passed the following:

H.B. 570, Relating to a continuing education requirement for a county treasurer.

H.B. 828, Relating to the compensation and allowances of county auditors in certain counties.

H.B. 888, Relating to a court's continuing jurisdiction over a prisoner sentenced to the Texas Department of Corrections.

H.B. 896, Relating to unemployment compensation and the taxes levied for benefits and for the principal of and interest on federal advances.

H.B. 1038, Relating to the consolidation of duties in connection with voter registration and the conduct of elections in the office of the county clerk or county tax assessor-collector.

H.B. 1157, Relating to the authority of a commissioners court to permit the revision of a subdivision plat.

H.B. 1310, Relating to judicial review of certain orders issued by the Alcoholic Beverage Commission.

H.B. 1518, Relating to the transfer of prisoners between jails and other facilities for the purpose of reducing jail overcrowding.

H.B. 1580, Relating to a taxpayer's remedies in the judicial review of certain property tax determinations.

H.B. 1669, Relating to the jurisdiction of the 9th, and Second 9th, and the 258th District Courts in Polk County and to the compensation of the judges of those courts.

H.B. 2102, Relating to the powers of the Board of Regents of The University of Texas System to fix the rate of incidental student fees.

H.B. 2118, Relating to private mortgage guaranty insurance issued pursuant to the Insurance Code.

H.B. 2224, Relating to the filing of the court reporter's notes with the district clerk in certain criminal cases.

H.B. 2352, Relating to the elements of and punishment for the offense of commercial bribery.

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

MOTION TO PLACE SENATE BILL 507 ON SECOND READING

Senator Sims moved to suspend the regular order of business to take up for consideration at this time:

S.B. 507, Relating to the areas in which a telephone cooperative may operate.

The motion was lost by the following vote: Yeas 13, Nays 18.

Yeas: Blake, Caperton, Doggett, Edwards, Farabee, Howard, Kothmann, Montford, Parker, Parmer, Santiesteban, Sarpalius, Sims.

Nays: Brooks, Brown, Glasgow, Harris, Henderson, Jones, Leedom, Lyon, Mauzy, McFarland, Sharp, Traeger, Truan, Uribe, Vale, Washington, Whitmire, Williams.

SENATE BILL 862 ON SECOND READING

Senator Traeger asked unanimous consent to suspend the regular order of business to take up for consideration at this time:

S.B. 862, Relating to the exemption of certain peace officers from regulation under the Private Investigators and Private Security Agencies Act.

There was objection.

Senator Traeger then moved to suspend the regular order of business and take up **S.B. 862** for consideration at this time.

The motion prevailed by the following vote: Yeas 23, Nays 6.

Yeas: Blake, Brooks, Brown, Caperton, Edwards, Harris, Henderson, Howard, Jones, Kothmann, Leedom, McFarland, Montford, Parker, Parmer, Santiesteban, Sarpalius, Sims, Traeger, Truan, Uribe, Vale, Whitmire.

Nays: Doggett, Farabee, Lyon, Mauzy, Washington, Williams.

Absent: Glasgow, Sharp.

The bill was read second time and was passed to engrossment by the following vote: Yeas 25, Nays 6.

Yeas: Blake, Brooks, Brown, Caperton, Edwards, Glasgow, Harris, Henderson, Howard, Jones, Kothmann, Leedom, McFarland, Montford, Parker, Parmer, Santiesteban, Sarpalius, Sharp, Sims, Traeger, Truan, Uribe, Vale, Whitmire.

Nays: Doggett, Farabee, Lyon, Mauzy, Washington, Williams.

SENATE BILL 862 ON THIRD READING

Senator Traeger moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **S.B. 862** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 25, Nays 6.

Yeas: Blake, Brooks, Brown, Caperton, Edwards, Farabee, Glasgow, Harris, Howard, Jones, Kothmann, Leedom, McFarland, Montford, Parker, Parmer, Santiesteban, Sarpalius, Sharp, Sims, Traeger, Truan, Uribe, Vale, Whitmire.

Nays: Doggett, Henderson, Lyon, Mauzy, Washington, Williams.

The bill was read third time and was passed by the following vote: Yeas 23, Nays 8.

Yeas: Blake, Brooks, Brown, Caperton, Edwards, Harris, Howard, Jones, Kothmann, Leedom, McFarland, Montford, Parker, Parmer, Santiesteban, Sarpalius, Sharp, Sims, Traeger, Truan, Uribe, Vale, Whitmire.

Nays: Doggett, Farabee, Glasgow, Henderson, Lyon, Mauzy, Washington, Williams.

COMMITTEE SUBSTITUTE SENATE BILL 853 ON SECOND READING

On motion of Senator Whitmire and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

C.S.S.B. 853, Relating to the duration of a bail bondsman's liability as surety on an appearance bond.

The bill was read second time and was passed to engrossment.

COMMITTEE SUBSTITUTE SENATE BILL 853 ON THIRD READING

Senator Whitmire moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that C.S.S.B. 853 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Washington.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

SENATE BILL 908 ON SECOND READING

On motion of Senator Truan and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

S.B. 908, Relating to credit in the Employees Retirement System of Texas for certain service performed by persons who became highway department employees.

The bill was read second time and was passed to engrossment.

SENATE BILL 908 ON THIRD READING

Senator Truan moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that S.B. 908 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Washington.

The bill was read third time and was passed.

MESSAGE FROM THE HOUSE

House Chamber
May 12, 1983

HONORABLE W. P. HOBBY
PRESIDENT OF THE SENATE

SIR: I am directed by the House to inform the Senate that the House has passed the following:

S.C.R. 111, Directing the Enrolling Clerk of the Senate to make certain changes in House amendment to **S.B. 623**.

H.B. 2153, Relating to the issuance of warrants or notes by certain cities and towns to pay their current expenses.

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

SENATE BILL 1329 ON SECOND READING

On motion of Senator Sarpalius and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

S.B. 1329, Relating to the sales and use tax exemption for solar energy devices.

The bill was read second time and was passed to engrossment.

SENATE BILL 1329 ON THIRD READING

Senator Sarpalius moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **S.B. 1329** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Washington.

The bill was read third time and was passed.

MOTION TO PLACE SENATE BILL 495 ON SECOND READING

Senator Washington moved to suspend the regular order of business to take up for consideration at this time:

S.B. 495, Relating to the regulation of the practice of acupuncture; providing penalties.

The motion was lost by the following vote: Yeas 13, Nays 16, Present-not voting 1.

Yeas: Blake, Brooks, Brown, Caperton, Edwards, Farabee, Kothmann, Mauzy, Parker, Traeger, Truan, Uribe, Washington.

Nays: Glasgow, Harris, Henderson, Howard, Jones, Leedom, Lyon, McFarland, Montford, Parmer, Sarpalius, Sharp, Sims, Vale, Whitmire, Williams.

Present-not voting: Doggett.

Absent: Santiesteban.

REASON FOR VOTE

I support **S.B. 495** but voted "present" on the motion to suspend the regular order of business because my law firm represents clients in a lawsuit in which the legal status of acupuncturists may be an issue.

DOGGETT

(President in Chair)

SENATE BILL 773 ON SECOND READING

On motion of Senator Parmer and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

S.B. 773, Relating to conflicts of interest involving certain public officers and employees; providing penalties.

The bill was read second time.

Senator Parmer offered the following committee amendment to the bill:

Committee Amendment No. 1

Amend **H.B. 1448** and **S.B. 773** as follows:

- (1) On page 2, line 5 and 6, delete (knowingly or intentionally).
- (2) Insert the following after the word affected on line 8, page 2: and which he knew or should have known to be in violation of this section.

(3) On page 4, line 18, delete the word (would) and substitute the following: did know and should.

The committee amendment was read and was adopted.

Senator Parmer offered the following committee amendment to the bill:

Committee Amendment No. 2

Amend S.B. 773 by striking all of subsection (b) of Sec. 6 in Section 1 of the bill and substituting in lieu thereof the following:

“(b) A public servant has a financial interest in a vote, decision, or other matter if it is reasonably foreseeable that an action on the matter will have a financial effect, distinguishable from its effect on the public generally, on:

(1) a business entity in which the public servant controls an interest in excess of ten percent (10%); or

(2) a source of income that amounts to more than ten percent (10%) of his previous year’s gross income.”

The committee amendment was read.

Senator Parmer offered the following substitute for Committee Amendment No. 2:

Floor Amendment No. 1

Amend Committee Amendment No. 2 to S.B. 773 by striking the entire amendment and substituting therefor the following:

Amend S.B. 773 by striking all of Subsection (b) of Section 6 in Section 1 of the bill and substituting in lieu thereof the following:

“(b) A public servant has a financial interest in a vote, decision, or other matter if it is reasonably foreseeable that an action on the matter will have a financial effect, distinguishable from its effect on the public generally, on:

“(1) a business entity in which the public servant controls an interest in excess of ten percent (10%) or \$10,000.00, whichever is less;

“(2) a source of income that amounts to more than ten percent (10%) of his previous year’s gross income or \$10,000.00, whichever is less; or

“(3) real property in which the public servant has an interest worth more than \$10,000.00.

The substitute was read.

On motion of Senator Parmer and by unanimous consent, the substitute was withdrawn.

Senator Parmer offered the following substitute for Committee Amendment No. 2:

Floor Amendment No. 2

Amend Committee Amendment No. 2 to S.B. 773 by striking the entire amendment and substituting therefor the following:

Amend S.B. 773 by striking all of Subsection (b) of Section 6 in Section 1 of the bill and substituting in lieu thereof the following:

“(b) A public servant has a financial interest in a vote, decision, or other matter if it is reasonably foreseeable that an action on the matter will have a financial effect, distinguishable from its effect on the public generally, on:

“(1) a business entity in which the public servant controls an interest in excess of ten percent (10%) or \$25,000.00, whichever is less;

"(2) a source of income that amounts to more than ten percent (10%) of his previous year's gross income or \$25,000.00, whichever is less: or

"(3) real property in which the public servant has an interest worth more than \$25,000.00

The substitute was read and was adopted.

Question recurring on adoption of Committee Amendment No. 2 as substituted, Committee Amendment No. 2 as substituted was adopted.

On motion of Senator Parmer and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment.

(Senator Brooks in Chair)

SENATE BILL 773 ON THIRD READING

Senator Parmer moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that S.B. 773 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 3.

Yeas: Blake, Brooks, Brown, Caperton, Doggett, Edwards, Farabee, Glasgow, Henderson, Howard, Jones, Kothmann, Leedom, Mauzy, McFarland, Montford, Parker, Parmer, Santiesteban, Sarpalus, Sharp, Sims, Traeger, Truan, Uribe, Vale, Whitmire, Williams.

Nays: Harris, Lyon, Washington.

The bill was read third time and was passed.

RECORD OF VOTES

Senators Lyon and Washington asked to be recorded as voting "Nay" on the final passage of the bill.

MESSAGE FROM THE HOUSE

House Chamber
May 12, 1983

HONORABLE W. P. HOBBY
PRESIDENT OF THE SENATE

SIR: I am directed by the House to inform the Senate that the House has passed the following:

All necessary rules suspended, and the House concurred in Senate amendments to H.B. 102 by a non-record vote.

All necessary rules suspended, and the House concurred in Senate amendments to H.B. 618 by a non-record vote.

The House has granted the request of the Senate for appointment of a Conference Committee to S.B. 294. House Conferees: C. Evans, Chairman; Coody, Wallace, Arnold and Messer.

The House has concurred in Senate amendments to H.B. 267 by a non-record vote.

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

SENATE BILL 551 ON THIRD READING

Senator Farabee moved to suspend the regular order of business to take up for consideration at this time on its third reading and final passage:

S.B. 551, Relating to the gulfward boundaries of coastal home-rule cities.

The motion prevailed by the following vote: Yeas 29, Nays 1, Present-not voting 1.

Nays: Leedom.

Present-not voting: Howard.

(Senator Traeger in Chair)

The bill was read third time.

Senator Farabee offered the following amendment to the bill:

Amend **S.B. 551** by striking all below the enacting clause and substituting the following:

SECTION 1. Section 11.0131, Natural Resources Code, is amended by amending Subsection (b), (c), and (d) and by adding Subsection (e) to read as follows:

(b) The boundary of a [A] home-rule city may not extend into the gulf outside of an area that is enclosed by:

(1) for home-rule cities which have not prior to May 1, 1983, annexed gulfward from the coastline:

(A) drawing a straight line connecting the two most remote points on the part of the coastline located in the city on June 1, 1983, the distance to be measured along the coastline;

(B) drawing straight lines that extend gulfward for one marine league from each of the two ends of the line drawn under Subdivision (A) of this subsection and that are perpendicular to the line drawn under Subdivision (A); and

(C) drawing a straight line connecting the two gulfward ends of the lines drawn under Subdivision (B) of this subsection; or

(2) for home-rule cities which have, prior to May 1, 1983, annexed gulfward from the coastline:

(A) drawing a straight line that connects the two most remote points on the part of the coastline located in the city on June 1, 1983, and that extends through those two points as far as necessary to draw the line described by Subdivision (2) of this subsection;

(B) drawing a straight line that extends gulfward for one marine league, that is perpendicular to the line drawn under Subdivision (1) of this subsection, and that extends or, if drawn far enough, would extend, through the two most remote points on the city limits in the gulf, as the limits exist on June 1, 1983.

(C) drawing a straight line connecting the two gulfward ends of the lines drawn under Subdivision (2) of this subsection [annex state-owned submerged lands located

[(1) gulfward from the coastline, or

[(2) more than 5,280 feet from the corporate city boundaries in bays or estuaries].

(c) A contract or agreement by which a home-rule city purports to pledge, directly or indirectly, taxes or other revenue from or attributable to state-owned submerged lands or other lands located outside the area described by

Subsection (b) of this section [more than one marine league gulfward from the coastline] does not create an enforceable right to prevent the reformation of the city's boundary under Subsection (d) of this section [removal, by disannexation or other means, of all or part of the submerged lands from the city's jurisdiction].

(d) The boundary of a home-rule city is void to the extent that it violates Subsection (b) of this section, and the boundary is reformed on the effective date of this act to exclude the territory situated outside the area described by Subsection (b) [This section expires October 1, 1983].

(e) A home-rule city may create industrial districts in the area that is outside the city limits and that is located in an area formed in the manner prescribed by Subsection (b) of this section except that the line drawn under Subdivision (1) (B) or (2) (B) of Subsection (b) may be extended for no more than five statute miles instead of one marine league. The governing body of such city shall have the right, power, and authority to designate the area described as an industrial district, as the term is customarily used, and to treat such area from time to time as such governing body may deem to be in the best interest of the city. Included in such rights and powers of the governing body of any city is the right and power to enter into contracts or agreements with the owner(s) or lessee(s) of land in such industrial district upon such terms and considerations as the parties might deem appropriate.

The city shall have no authority to regulate oil and gas exploration, production and transportation operations in an industrial district established pursuant to this Act, but in consideration of such relinquishment and the relinquishment of other rights under Section 5, Article 970a, Vernon's Texas Civil Statutes, the city is expressly authorized to require payments of a property owner in such industrial district in an amount not to exceed 35 percent of the revenue that would be produced if the city imposed a property tax in the industrial district. Nothing herein shall prohibit a city and property owner from agreement by contract for payments in a lesser amount.

SECTION 2. The reformation of a city's boundaries under Section 11.0131, Natural Resources Code, as amended by this Act, does not affect the authority of a city to collect any city taxes for any year preceding and including, prorated, the year of the effective date of this Act on an area that is removed from the city by the reformation of boundaries if, on May 1, 1983, the legality of the annexation or the imposition of the taxes was involved in litigation and the validity of the annexation is upheld in a final, non-appealable judgement in such litigation.

SECTION 3. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The amendment was read and was adopted by unanimous consent.

On motion of Senator Farabee and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was finally passed by the following vote: Yeas 29, Nays 1, Present-not voting 1.

Nays: Leedom.

Present-not voting: Howard.

SENATE BILLS ON FIRST READING

On motion of Senator Doggett and by unanimous consent, the following bills were introduced, read first time and referred to the Committee indicated:

S.B. 1414 by Doggett Health and Human Resources
Relating to the licensing, regulation, and supervision of nursing and convalescent homes and related institutions or other providers of medical assistance and the investigation and prosecution of abuse, including Medicaid fraud, mistreatment or neglect of patients, or other violations, and providing penalties.

S.B. 1415 by Vale Intergovernmental Relations
Relating to the establishment of the Bexar County Child Support Services Department and to the collection of certain fees.

HOUSE BILL AND RESOLUTION ON FIRST READING

The following bill and resolution received from the House were read the first time and referred to the Committee indicated:

H.C.R. 246, To Committee on Health and Human Resources.

H.B. 2437, To Committee on Health and Human Resources.

SENATE RULE 103 SUSPENDED

Senator Brooks asked unanimous consent to suspend Senate Rule 103 in order that the Committee on Health and Human Resources might consider **H.C.R. 246** and **H.B. 2437** today upon adjournment.

There was objection.

Senator Brooks moved to suspend the Posting Rule in order that the Committee on Health and Human Resources might consider **H.C.R. 246** and **H.B. 2437** today upon adjournment.

The motion prevailed by the following vote: Yeas 24, Nays 5.

Yeas: Brooks, Caperton, Doggett, Edwards, Farabee, Harris, Henderson, Jones, Kothmann, Leedom, Lyon, Mauzy, McFarland, Montford, Parker, Parmer, Sarpalius, Sims, Truan, Uribe, Vale, Washington, Whitmire, Williams.

Nays: Blake, Brown, Howard, Sharp, Traeger.

Absent: Glasgow, Santiesteban.

MEMORIAL RESOLUTIONS

S.R. 602 - By Brooks: Memorial resolution for Robert Franklin Warren.

S.R. 603 - By Brooks: Memorial resolution for Raymond Frank Blount.

WELCOME AND CONGRATULATORY RESOLUTIONS

S.R. 601 - By Williams: Extending congratulations to James Mitchel Gray.

S.R. 604 - By Doggett: Extending welcome to the second grade students from Casis Elementary School.

S.R. 606 - By Kothmann: Extending welcome to Jacque Anton, Honorary Page for the Day.

S.R. 607 - By Truan: Extending congratulations to Corpus Christi State University on the occasion of its 10th anniversary.

S.R. 608 - By Doggett: Extending congratulations to Leodocia M. Pope.

S.R. 609 - By Doggett: Commending Coach A. E. "Abe" Lemons.

S.R. 610 - By Truan: Extending congratulations to Jose Alvarado, Jr.

S.R. 611 - By Williams: Commending the Heritage Hall Senior Citizens of San Jacinto.

ADJOURNMENT

On motion of Senator Mauzy, the Senate at 3:59 o'clock p.m. adjourned until 11:00 o'clock a.m. Monday, May 16, 1983.

APPENDIX

Signed by Governor
(May 10, 1983)

S.C.R. 102

H.C.R. 151

H.C.R. 84

S.B. 33 (Effective January 1, 1984)
S.B. 168 (Effective January 1, 1984)
S.B. 173 (Effective September 1, 1983)
S.B. 257 (Effective immediately)
S.B. 288 (Effective September 1, 1983)
S.B. 320 (Effective immediately)
S.B. 326 (Effective September 1, 1983)
S.B. 339 (Effective immediately)
S.B. 343 (Effective September 1, 1983)
S.B. 357 (Effective immediately)
S.B. 368 (Effective September 1, 1983)
S.B. 453 (Effective immediately)
S.B. 499 (Effective August 29, 1983)
S.B. 500 (Effective September 1, 1983)
S.B. 555 (Effective August 29, 1983)
S.B. 570 (Effective immediately)
S.B. 580 (Effective September 1, 1983)
S.B. 581 (Effective immediately)
S.B. 588 (Effective immediately)
S.B. 594 (Effective immediately)
S.B. 606 (Effective July 1, 1983)
S.B. 614 (Effective August 29, 1983)
S.B. 617 (Effective September 1, 1983)
S.B. 637 (Effective immediately)
S.B. 663 (Effective September 1, 1983)
S.B. 683 (Effective August 29, 1983)
S.B. 684 (Effective August 29, 1983)
S.B. 685 (Effective August 29, 1983)
S.B. 686 (Effective September 1, 1983)
S.B. 687 (Effective August 29, 1983)

(May 11, 1983)

H.C.R. 240

Filed Without Signature of Governor
(May 11, 1983)

S.C.R. 32

S.C.R. 33